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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,363	01/30/2004	Eduardo Jimenez	IR 7433-01	6548
23909 7590 07/01/2009 COLGATE-PALMOLIVE COMPANY 909 RIVER ROAD PISCATAWAY, NJ 08855				
EXAMINER				
GUIDOTTI, LAURA COLE				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/768,363

Applicant(s)

JIMENEZ ET AL.

Examiner

Laura C. Guidotti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-43 and 45-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-43 and 45-47 is/are allowed.
- 6) ☒ Claim(s) 49-53, 55 and 56 is/are rejected.
- 7) ☒ Claim(s) 48 and 54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 48 is objected to because of the following informalities:

Claim 48 is written so that it depends from claim "37", however the Examiner believes this is a typographical error and that claim 48 depends from claim 47 instead. Otherwise "the hard plastic" in line 1 of claim 48 lacks antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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2. Claims 49-53 and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shekalim, US 5,689,850 in view of Raven et al., US 5,991,959.

Shekalim discloses a power toothbrush comprising a handle (12), a cleaning head attached to the handle (2, 6), a power source of batteries (36), an electrical motor (30), and a mechanical vibratory device (32; Column 3 Lines 24-34), the motor and the vibratory device disposed in the handle (as shown in Figure 1), the cleaning head (2) having a plurality of cleaning/treating elements (6). Shekalim does not disclose that the plurality cleaning/treating elements have characteristics that differ from other cleaning/treating elements. However, Shekalim teaches a powered device that accepts conventional toothbrushes (2) so that there is a greater variety of toothbrushes available to a user, that the user may replace a toothbrushing surface as needed, and an interchangeable head so that more than one user can use the powered portion of the device (Column 4 Lines 1-7). Further, regarding claim 55, the handle and head are unitary structure (when assembled, see Figures), the motor and vibrator device disposed in the handle (see Figures).

Raven et al. disclose a toothbrush comprising a handle having a longitudinal axis (2), a cleaning head attached to the handle (1), the cleaning head having a main body (3) formed of a substantially rigid material (Column 2 Lines 19-30, Column 3 Lines 4-8, Column 4 Lines 42-51), a plurality of spaced apart beams protruding from the main body (16; Figure 4), the beams constructed of the substantially rigid material (Column 2 Lines 19-30, Column 3

Lines 4-8, Column 4 Lines 42-51), the plurality of beams enclosed in a flexible elastic material (6; Column 3 Lines 9-11 and 20-24, Column 5 Lines 55-58), thereby forming a plurality of spaced apart support structures (7) that are rotatably movable with respect to the main body (Column 2 Line 63 to Column 3 Line 3), and a cleaning/treating element attached to each of the support structures (11 or 17). Regarding claim 50, each of the support structures further comprise a plate connected to an end of the beam (18), the cleaning/treating element attached to and extending from the plate (Figure 4). Regarding claim 51, the support structures are rotatably movable about a vertical axis extending substantially perpendicular to the longitudinal axis of the handle (Column 2 Line 63 to Column 3 Line 3). Regarding claim 52, there are at least two cleaning/treating elements extending from the main body that are non-movable with respect to the main body (8). Regarding claim 53, the cleaning/treating elements attached to the support structures (11, 17) and the at least two cleaning/treating elements extending from the main body (8) are aligned along the longitudinal axis of the handle (Figures 3-4), the cleaning/treating elements attached to the support structures located between the at least two extending from the main body (Figures 3-4). Regarding claim 56, each of the cleaning/treating elements attached to the support structures is capable of being rotatably movable independent of any other of the cleaning/treating elements attached to the support structure (Figures 3-4).

It would have been obvious for one of ordinary skill in the art at the time of the invention to substitute the conventional toothbrush head within device of

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Shekalim with a manual toothbrush that includes a brush head having cleaning/treating elements attached to support structures, as Raven et al. teach, in order to provide cleaning elements that are capable of moving in many directions in order to effectively clean tooth surfaces.

Allowable Subject Matter

3. Claims 37-43 and 45-48 are allowed.
4. Claim 54 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art made of record discloses a powered toothbrush comprising a handle, cleaning head having a first end and a free end, the cleaning head having a main body formed of a substantially rigid material, a power source, a motor, a mechanical vibratory device, the motor and mechanical vibratory device disposed in the handle, wherein the cleaning head includes a first cleaning/treating element adjacent the first end that is non-movable relative to the main body and is the endmost cleaning/treating element at the first end, a second cleaning/treating element adjacent the free end that is non-movable relative to the main body and is the endmost cleaning/treating element at the free end, and a plurality of third cleaning/treating elements disposed between the first and second cleaning/treating elements, wherein each of the plurality of third cleaning/treating elements extends from one of a plurality of support structures having at least a portion that is rotatably moveable relative to the cleaning head

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about a vertical axis extending upwardly from one of a plurality of support structures, the vertical axis extending substantially perpendicular to a longitudinal axis of the handle, and wherein each of the plurality of third cleaning/treating elements is movable independent of any other third cleaning/treating element, and further comprising a plurality of channels, each of the channels extending transversely and substantially completely across a surface of the cleaning head, from which the cleaning/treating elements extend and separating a support structure from one of an adjacent support structure, the free end or the first end; and each of the plurality of support structures comprising a beam of the substantially rigid material extending from the main body and enclosed in an elastic material.

US 5,991,959 to Raven et al. does include many structural elements that are found in claim 37, however does not disclose that there are a plurality of channels, each of the channels extending transversely and substantially completely across a surface of the cleaning head. In addition, Raven et al. does not disclose that at least two cleaning/treating elements that extend along the substantial entirety of the width of the head.

JP 2002-10832 does not disclose that each of the plurality of support structures comprise a beam of substantially rigid material extending from the main body and enclosed in an elastic material.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Wednesday, 6am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura C Guidotti/
Primary Examiner, Art Unit 3727

lcg